

REMARKS

Claims 1-14 are pending in the application and are subject to a restriction requirement. In the Office Action, claims 1-14 are said to be distinct as directed to an apparatus and a process as follows:

- 1) Claims 1-11 (identified as Group I), drawn to a comminution apparatus; and
- 2) Claims 12-14 (identified as Group II), drawn to a method of comminution.

Restriction is only proper where there is a serious burden on the Examiner if restriction is not required (M.P.E.P. § 803). If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions. *Id.* In the instant application, the Examiner would not be seriously burdened by examining both the apparatus claims 1-11 and the process claims 12-14.

The Examiner previously examined all of the application's claims and, on January 13, 2005, issued an office action addressing the patentability of all of the claims. The amendments in Applicant's June 13, 2005 response to the January 13, 2005 office action only add a limitation to the amended claims. Moreover, no new claims were introduced in the prior response. Accordingly, the response did not make changes to the claims that should require the Examiner to perform any significant further search or examination. Because an additional comprehensive search of the prior art is not required to further consider the patentability of the application's claims, the Examiner would not be subject to any serious burden to further examine all pending claims. Consequently, Applicant respectfully requests that the Examiner' withdraw the

restriction requirement and examine each of claims 1-14 as amended in Applicant's prior response.

If Applicant can be of any assistance to the Examiner in addressing any remaining issue to advance the application to allowance, please contact the undersigned at the number set forth below.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "C. Allen Black", written over a horizontal line.

C. Allen Black
Attorney for Applicants
Reg. No. 53,835

Customer No. 26285

Kirkpatrick & Lockhart Nicholson Graham LLP
Henry W. Oliver Building
535 Smithfield Street
Pittsburgh, PA 15222

Telephone: (412) 355-6319
Facsimile: (412) 355-6501